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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,353	01/14/2002	Mehran Arbab	1376P1	5572

7590 10/05/2004  
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EXAMINER

BOLDEN, ELIZABETH A

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/047,353

Applicant(s)

ARBAB ET AL.

Examiner

Elizabeth A. Bolden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 and 44 is/are pending in the application.
- 4a) Of the above claim(s) 36-39 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-29, 31-35 and 44 is/are rejected.
- 7) ☒ Claim(s) 18 & 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Any rejections and or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17, 19-29, 31-35, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Casariego et al., U.S. Patent 5,582,455.

Casariego et al. teach a soda lime silica glass having overlapping ranges with instant claims 1-17, 19-29, 31-35, and 44. See Abstract and column 1, line 60 to column 2, line 5. Casariego et al. further disclose optical properties for the glass composition that overlap the instant claims. See Abstract, column 2, lines 8-12, 23-25, and 35-27. Casariego et al. teach that the glasses are made by the float process. See column 2, lines 18-22. Casariego et al. teach that the glasses are used for automotive glazings. See column 4, lines 21-23. Casariego et al. teach that the glasses are of neutral colorations that vary from blue/green to green/yellow. See column 2, lines 33-37.

Casariego et al. fail to teach any examples or compositional ranges that are sufficiently specific to anticipate the compositional limitations of claims 1-17, 19-29, 31-35, and 44.

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However, overlapping ranges have been held to establish prima facie obviousness. See MPEP 2144.05.

One of ordinary skill in the art would expect that a glass with overlapping compositional ranges would have the properties recited in claims 16, 19, 29, 30, 31, and 34.

### ***Allowable Subject Matter***

As stated in the previous Office Action mailed 8 April 2004, claims 18 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Response to Arguments***

Applicant's arguments filed 12 July 2004 have been fully considered but they are not persuasive.

Applicants respond to the response to the arguments mailed in the 8 April 2004 Office Action where the Examiner responded that the claim language "consist essentially of" does not limit  $\text{Cr}_2\text{O}_3$  from being included in the instant invention's composition. Applicants argue that the claim language "consist essentially of" does eliminate the addition of  $\text{Cr}_2\text{O}_3$  from the instant invention since the addition of  $\text{Cr}_2\text{O}_3$  would materially affect the basic and novel characteristics of the claimed composition.

This is not deemed persuasive for the following reasons. First, Casariego et al. disclose a  $\text{Cr}_2\text{O}_3$  content of 0-0.1 wt%, therefore  $\text{Cr}_2\text{O}_3$  is not a required component in the glasses of Casariego et al. See Abstract and column 2, line 6.

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Furthermore, The Applicants have not proved that the addition of  $\text{Cr}_2\text{O}_3$  materially affects the instantly claimed glass. In contrast the Applicant's Specification mentions in several instances the addition of  $\text{Cr}_2\text{O}_3$  to the instantly claimed glass. See instant Specification: Page 8 lines 1-8, page 10 line 24 to page 11 line 3, page 11, line 29 to page 12 line 30, and page 18, lines 10-15.

Specifically, the specification states starting on page 10, line 33:

“that glass compositions of the instant invention produced by a commercial float process as discusses earlier may include low levels of  $\text{Cr}_2\text{O}_3$ ,  $\text{MnO}_2$ , and less than 0.020 weight percent  $\text{TiO}_2$ , but these levels of such material are considered to be tramps levels which would not materially affect the color characteristics and spectral properties of the blue glass of the present invention.”

Additionally, in the Specification on page 18, starting on line 10:

Also as with Table 1, the analysis of the glass compositions for Table 3 indicate the presence of small amounts of  $\text{Cr}_2\text{O}_3$ ,  $\text{MnO}_2$ , and  $\text{TiO}_2$ . Generally around less than 10 ppm  $\text{Cr}_2\text{O}_3$  can be present although a few of the examples had the amount of  $\text{Cr}_2\text{O}_3$  of 150 to 154 ppm..”

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth A. Bolden whose telephone number is 571-272-1363.


The examiner can normally be reached on 9:30 am-7:00 pm with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark L. Bell can be reached on 571-272-1362. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EAB

1 October 2004

  
**KARL GROUP**  
**PRIMARY EXAMINER**  
**GROUP 1755**